

That the Supreme Court shall be holden at two places in the State; one in the 1st Congressional District which shall be holden in the town of Henderson, in the county of Rusk, and the said Court, for the 2nd Congressional District, shall be holden in the city of Austin, in the county of Travis."

On motion of Senator Kinney, the bill was laid on the table until Monday next.

Senate adjourned, until to-morrow morning 9 o'clock

SENATE CHAMBER, }  
SATURDAY, April 11, 1846. }  
9 o'clock A. M.

Senate met pursuant to adjournment, roll called and a quorum present.

Journal of the preceding day was read and adopted.

Senator Hogg, Chairman of the Judiciary committee, reported back without amendments the following bills:

A bill requiring the Governor to notify the Chief Justices of counties, of the appointment of Notaries Public, and to have the same published.

A bill to prevent Justices of the Peace, Clerks of the District, County and Probate Courts, from issuing executions for costs only in civil actions: and

A bill to define in what manner judgments shall act as a lien upon real estate.

Senator Scott announced the following bills as correctly enrolled, signed by the Speaker and President *pro tem.*, and presented to the Governor for his signature:

An act to create the county of Denton.

An act to establish the Judicial Districts of the State.

Senator Jewett, Chairman of the Select committee, to whom was referred section 4th, article 13th, of the Constitution made the following report:

COMMITTEE ROOM, }  
 April 10th, 1846. }

*To the Honorable Edward Burleson,  
 President pro tem. of the Senate:*

A majority of the Select committee, to which was referred, the latter part of section 4th, article 13th of the Constitution, to wit:

All fines, penalties, forfeitures and escheats, which have accrued to the Republic of Texas, under the Constitution and laws, shall accrue to the State of Texas; and the Legislature shall by law provide a method for determining what lands may have been forfeited or escheated: having had the same under consideration, ask leave to report.

The terms of this article of the schedule, are explicit and imperative, and your committee are of opinion, that it is an unavoidable obligation imposed on the Legislature, to enact some law or laws, providing the method of determining what lands may have been forfeited or escheated to the State.

For the purpose of carrying into effect, this section of the schedule, and complying with that provision of the Constitution, which requires that every law enacted by the Legislature, shall embrace but one object, a majority of your committee have prepared two bills; the one to be entitled an act to provide for vesting in the State, escheated property, which was submitted to the Senate at a former day; and a bill herewith submitted, entitled an act to provide a method for ascertaining when lands have been forfeited to the State.

Escheats and forfeitures form two distinct classes, on which separate legislation can be had, with a view to avoid any constitutional objection. Although the obligation of passing some law, is imperative, your committee are apprised that reasons alledged to be founded on policy and equity, have been, and will be urged, to restrain the application of forfeitures in many cases, where under the Constitution and laws, they may have accrued.

The policy of forfeiting lands, appears to have engaged the attention of the members of the consultation, and the following provision is contained in the Ordinance establishing the Provisional Government.

"ART. 19. All persons who leave the country in its present crisis, with a view to avoid a participation in its present struggle, without permission from the alcalde or judge, of their municipality, shall forfeit all, or any lands they may hold, or may

have a claim to, for the benefit of this Government, *provided*, nevertheless, that widows and minors are not included in this provision."

The Constitution of the Republic of Texas, adopted by the delegates in Convention, March 17th, 1836.

Section 8th of General Provisions, declares that "all persons who shall leave the country, for the purpose of avoiding a participation in the present struggle, or shall refuse to participate in it, or shall give aid or assistance to the present enemy, shall forfeit all rights of citizenship, and such lands as they may hold in the Republic." And further, Section 10th, "No alien shall hold land in Texas, except by titles emanating directly from the Government of this Republic, &c."

The second article of the schedule of the Constitution of the Republic provides that "all fines, penalties, forfeitures and escheats, which have accrued to Coahuila and Texas, or Texas, shall accrue to this Republic."

The right of every State to forfeit lands, for failure to observe the allegiance due from the citizen to the State, or for a failure to perform the conditions attached to the original grant of soil, made to any citizen, is incontrovertible.

The recognition and assertion of this right, is essential to preserve nationality. Its enforcement may be modified by considerations of policy, arising from the condition of the country, and the interests of its citizens.

The policy which induced the framers of the State Constitution, to incorporate the clause in the schedule, referred to your committee, may be presumed to be, the reclamation to the State, of any territory or lands, to which it might be justly entitled.

By pursuing this policy under judicious restrictions, many beneficial results may be secured, and no general injury inflicted on the community. It will have a direct tendency to quiet many land titles now subjected to uncertainty and suspicion, and be the cause of preventing much harrassing litigation. In every State, it is the interest of the people, that uncertainty in the tenure of lands should be removed.

A judicial enquiry in behalf of the State, is proposed in the bill herewith submitted, concerning a certain class of grants, embracing many leagues in extent, the validity or invalidity of which, it is for the interest of the people should be determined by an early adjudication.

The former condition of the country has been such, that ma-

ny of the headright claims of the oldest and most meritorious settlers of Texas, have been entered in good faith, and surveyed on claims embracing many leagues in a grant. In such cases when the actual settler now applies to the General Land Office for his patent, he cannot procure it, without an expensive and protracted lawsuit against the conflicting claim, which his individual means will not enable him to prosecute. This conflict and uncertainty in title, operates injuriously, by casting suspicion on the claim of the actual settler, who has settled in good faith, and paid taxes on his lands, to the Government while in many instances, the large claimant has failed to contribute his just quota of taxation. It is therefore, ardently the policy of the State, to settle by an early adjudication, the conflicting claims, for if the title set up by those who claim grants embracing many leagues, should be sustained by a final judicial decision, the actual settler may lift his headright claim, and locate it on some other portion of the public domain.

Until an adjudication of these extensive conflicting titles the settlement of large portions of the State, will be retarded and the amount of patented lands and those occupied by actual settlers, will be so limited, as to effect sensibly, the revenue to be derived from a land tax, on which the State must rely for one of its chief sources of support.

There is another large class of forfeitures, which have doubtless accrued to the State, of conditional grants, made under the laws of the Republic, donating land to emigrants on condition of their residing within the Government, and performing all the duties required of other like citizens for a term of three years. This class embraces claims for 1280, 640 and 320 acres. Where there has been a non-compliance with the conditions, the State has the right to resume the grant, but the policy of permitting by express, legislative enactment, that these lands should descend to the heirs or devisees, in case of the death of the first grantee, is suggested.

The disposal of lands adjudged to be forfeited, is a subject surrounded with many difficulties, but believing that the system of forfeitures would be incomplete, without some mode indicated for their disposition, your committee have prepared a bill for that purpose, entitled, an act to regulate the disposal of lands adjudged to be forfeited to the State:

Having thus discharged the duty assigned them, by the terms of the resolution, appointing the committee, we submit

the following bills to the Senate, and ask to be discharged from the further consideration of the subject.

All of which is respectfully submitted.

HENRY J. JEWETT,  
*Chairman of Select Committee.*

Senator Kinney introduced a bill to extend the appropriation for the payment of minute men, made February 5th, 1842. Read 1st time.

### ORDERS OF THE DAY.

The following bills were read first time:

Bill creating the county of Navarro.

Bill to establish the county of Cass.

Bill to provide for closing the business of the late War and Marine Department.

Bill regulating juries.

Amendments of the House to a bill organizing Justices Courts, concurred in by the Senate.

The following bills were read 3rd time and passed:

Bill to establish and define the limits of San Patricio county.

Bill for disposing of part of the public buildings in the city of Austin.

Bill requiring the Commissioner of the General Land Office to record evidences of title made on paper of the second seal, and to deliver the same to the owners of the same. Referred to Judiciary committee.

Bill to authorize Chief Justices elected on the 2nd Monday in February last, to continue in office until their successors are elected.

Senator Scott moved to insert after "last" in first section, "or on a previous day."

Adopted and bill passed to 3rd reading.

Bill to establish the county of Nueces; passed to 3rd reading.

Bill to legalize the sale of lots in the town of Goliad; laid on the table.

Bill to authorize the Commissioner of the General Land Office to issue a patent to Joseph McGee; referred to committee on Public Lands.

Bill transferring part of the liabilities of Milam county to Burleson county; referred to committee on County Boundaries.

Joint resolution declaring the exclusive right of the State of Texas to the jurisdiction over the soil within her limits; referred to Judiciary committee.

Bill for the relief of Isaac Ferguson; referred to Judiciary committee.

Bill to require the county of Wharton, to pay a portion of the public debt of Matagorda and Colorado counties; passed to a 3rd reading.

Bill to establish the county seat of Grimes county; amended and passed to 3rd reading.

Bill to authorize the Governor, to cause the Constitution and certain laws to be translated into the German language; amended so as to include the Spanish language, and passed to a 3rd reading.

Bill to establish the county seat of Dallas county; passed to a 3rd reading.

Bill defining the limits of Nacogdoches county; passed to 3rd reading.

Bill to authorize the Governor to offer rewards for fugitives; passed to 3rd reading.

Bill to establish the county of Limestone; passed to 3rd reading.

A message was received from the Governor, informing the Senate of his approval of the following bills:

An act creating the county of Cherokee.

An act creating the county of Smith.

An act to create the county of Hunt.

An act to create the county of Denton.

An act to establish the Judicial Districts.

An act to provide for the enumeration of the inhabitants of the State of Texas.

An act to exempt from taxation \$250 worth of household furniture, or other personal property belonging to each family in the State.

Resolution to go into the election of District Attornies on Monday at eleven o'clock; adopted.

Bill to authorize J. H. Brown and Mary M. Brown, to adopt J. H. B. Stover as their child and lawful heir; referred to a select committee, composed of Senators Phillips, Grimes, and Parker.

A bill for the relief of widows and orphans; referred to the Judiciary committee.

Amendments of the House to the Senate's bill, to authorize the Governor to pay the express employed to circulate the law providing for the election of Representatives to the United States Congress; concurred in.

A message was received from the House, transmitting a bill to designate and officially name the persons who shall be conservators of the peace.

A bill to apportion the public debt of the county of Fannin, between the new counties created within the former limits of the same; read 3rd time and passed.

On motion, Senate adjourned until to-morrow 9 o'clock A. M.

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SENATE CHAMBER, }  
 MONDAY, April 13, 1846. }  
 9 O'CLOCK A. M.

Senate met pursuant to adjournment—roll called and a quorum present.

Journal of the preceding day was read and adopted.

Senator Hogg, Chairman of the Judiciary committee, made the following report:

COMMITTEE ROOM, }  
 April 13th, 1846. }

To the Hon. Edward Burleson,  
*President pro tem. of the Senate.*

The committee on the Judiciary, to whom was referred a bill, to be entitled an act to authorize and require the Judge of Probate of Jackson county, to permit the administrator of the estate of J. P. Caldwell, to remove the administration of said estate from Jackson to Austin county. Your committee after considering the same, conclude that the passage of the said bill would operate as a great hardship to the creditors of said estate, and the precedent a bad one. A majority of your committee instruct me to report the said bill to the Senate, and to recommend its rejection.

JOS. L. HOGG,  
*Chairman.*